IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.1880 OF 1995

Bharat Petroleum Corporation)
a Government of India Undertaking)
having its registered office and)
Head Office at Bharat Bhavan, 4/6)
Currimbhai Road, Ballard Estate)
Bombay 400 023.).. Petitioner

Versus

1) Harun Jafer Sheikh)
having his address at Ramwadi)
(Parsi Bunglow), Solapur.)

2) Shri D.M.Talegaonkar)
Presiding Officer, 1st Labour)
Court, Solapur.).. Respondents

Mr.J.P.Cama with Mr.G.S.Shetty i/b.M/s.Crawford Bayley & Co. for the Petitioner.

Mr.S.G.Kudle for Respondent No.1.

Respondent No.2 formal party.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 25TH AUGUST 2004

ORAL JUDGMENT :

. This Petition raises the issue as to whether the Labour Court acting under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as the "MRTU & PULP Act") has jurisdiction to entertain a Complaint filed against the Petitioner, Bharat Petroleum Corporation. The Labour Court found that the "appropriate Government" is the State Government and, therefore the MRTU & PULP

Act can be invoked by the first Respondent. According to the Labour Court, merely because an industry is a controlled industry, it would not mean that the MRTU & PULP Act could not be invoked since the Company was registered under the Indian Companies Act, 1913. The Labour Court has come to the conclusion that, although the Petitioner may be a controlled industry, it is not directly under the authority of the Central Government since it is incorporated as a commercial Corporation under the Indian Companies Act, 1913. On the basis of this finding that the MRTU & PULP Act can be invoked, the Labour Court has granted interim relief to the first Respondent workman by directing the Petitioner to reinstate him as a Watchman on a casual basis. It is this order which has been impugned in the present Writ Petition.

2. The entire reasoning of the Labour Court is faulty. The MRTU & PULP Act can be invoked only when the State Government is the appropriate Government in relation to a particular industry. Section 2(a) of the Industrial Disputes Act, 1947 indicates the Central Government is the appropriate Government in relation to any industrial dispute concerning any industry as may be specified by the Central Government. Notifications have been issued in pursuance to sub-clause (i) of clause (a) of Section 2 of the Industrial Disputes Act, 1947 indicating that industries engaged in the manufacture of production of mineral oil (crude oil), motor and

aviation spirit, diesel oil, kerosene oil, fuel oil, diverse hydrocarbon oils and their blends including synthetic fuels, lubricating oils and the like are declared as a controlled industry under the provisions of Section 2(a)(i) of the Industrial Disputes Act, 1947 for a period of two years from 21st June 1992. The Notification of 6th May 1994 indicates that the Government had extended the continuation of these industries to be controlled industries for a further period of two years. There is no dispute that the Bharat Petroleum Corporation is an industry engaged in the manufacture of petroleum products which have been mentioned in the Notification. In these circumstances, it is difficult to accept the view taken by the Labour Court that the MRTU & PULP Act can be invoked by the first Respondent. It is only when a State Government is the appropriate Government in relation to a particular industry that a party can invoke the MRTU & PULP Act. In the present case, there is no doubt that the appropriate Government is the Central Government and, therefore, no relief can be obtained under the MRTU & PULP Act.

3. For the foregoing reasons, Writ Petition allowed. The order dated 1st March 1995 passed by the 1st Labour Court, Solapur in Complaint (ULP) No.395 of 1993 is set aside. Complaint (ULP) No.395 of 1993 stands dismissed as not maintainable. Rule made absolute with no order as to costs.

4. Office to issue authenticated copy of this Judgment.